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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,323	12/27/2001	Robert Saucier	GLXY-001COA	2591

7590  
Timothy A. Brisson  
Sierra Patent Group, Ltd.  
P.O. Box 6149  
Stateline, NV 89449

12/02/2003

EXAMINER

PIERCE, WILLIAM M

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/035,323

Applicant(s)

SAUCIER, ROBERT

Examiner

William M Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

WILLIAM M. PIERCE  
PRIMARY EXAMINER

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## DETAILED ACTION

With respect to applicant's IDS filed 3/24/03, only references to Keller and Sines et al are analogous to the claimed invention and have been made of record. The remaining cited references are not even within the art of gaming and have not been considered.

***Claim Rejections - 35 USC § 102***

Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Keller.

As to claims 1 and 4, Keller shows providing a side wager that the players first two cards total twenty one in the form of the Ace/Jack of spades or the Ace/Jack of clubs as shown in fig. 2. Further he teaches the side wager based upon a paired 10, J, Q and K. With respect to claims 2 and 5, Keller shows a "21 Bet" where a player receives an "enhanced reward if the dealer's first two cards are a dealer Blackjack".

Applicant remarks that Keller does not show each and every element of his invention, particularly "whether two dealt cards add for a total of twenty" (bottom of pg. 2 of his remarks). Examiner does not agree with this position. Each game is concerned with offering a player a wager upon the nature of his initial two cards dealt in a game of black jack. While Keller allows a player to select from many propositions offered and applicants only offer a single proposition of that the two card add to a total of twenty, more importantly one of Kellers propositions available to a player is that a player receive a "pair" of 10, J, Q or K. Such a paired hand is considered to be "two dealt cards...for a total of twenty" as called for by applicant's claimed invention.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Koelling '741.

Applicant argues that Koelling "requires a determination of whether the dealer has an upcard of ten PRIOR to the determination of whether the player's hand totals twenty. However, it is noted that the features upon which applicant relies (i.e., the dealers upcard) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, The fact that Koelling may show more than applicant's claimed invention does not overcome a rejection based on anticipation under 35 USC 102(b).

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***Claim Rejections - 35 USC § 103***

Claims 2, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koelling.

Koelling shows enhance payouts, which depend upon the cards dealt to the dealer. Specifically he requires that a dealer's up card is 10. To have selected a requirement for the dealers up card would have been an obvious matter of choice. Applicant has not shown in the specification or by any evidence of record where the dealer card requirement is critical by solving any particular problem or producing any unexpected results.

***Response to Arguments***

Applicant's arguments filed 9/15/03 have been fully considered but they are not persuasive.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address [bill.pierce@USPTO.gov](mailto:bill.pierce@USPTO.gov) or at telephone number (703) 308-3551.

Any inquiry not concerning the merits of the case such as **missing papers, copies, status or information** should be directed to Tech Center 3700 Customer Service Center at (703) 306-5648 where the fax number is (703) 308-7957 and the email is [Customerservice3700@uspto.gov](mailto:Customerservice3700@uspto.gov).

For **official fax** communications to be officially entered in the application the fax number is (703) 305-3579.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone

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number is (703) 305-8335.

A handwritten signature in black ink, appearing to read 'W. M. Pierce', with a long horizontal flourish extending to the right.

**WILLIAM M. PIERCE**  
**PRIMARY EXAMINER**